

EXHIBIT H

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WELLS FARGO BANK, N.A.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ALICIA HERNANDEZ, EMMA WHITE,
KEITH LINDNER, TROY FRYE,
COSZETTA TEAGUE, IESHA BROWN,
RUSSELL and BRENDA SIMONEAUX,
JOHN and YVONNE DEMARTINO,
ROSE WILSON, TIFFANIE HOOD,
GEORGE and CYNDI FLOYD, and
DIANA TREVINO, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

WELLS FARGO & COMPANY,
WELLS FARGO BANK, N.A.

Defendants.

Case No. No. 3:18-cv-07354-WHA

**DEFENDANT WELLS FARGO BANK, N.A.'S
RESPONSES TO PLAINTIFFS' THIRD SET
OF REQUESTS FOR PRODUCTION OF
DOCUMENTS**

PROPOUNDING PARTY: PLAINTIFFS

RESPONDING PARTY: DEFENDANT WELLS FARGO BANK, N.A.

SET NUMBER: THREE (3)

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure (“Fed. R. Civ. P.”), Defendant Wells Fargo Bank, N.A. (“Defendant”) hereby submits the following Objections and Responses to Plaintiff Alicia Hernandez’s (“Plaintiff”) Third Set of Requests for Production of Documents (“Requests”). Defendant reserves the right to supplement, modify, or amend these responses up to and through the time of trial.

PRELIMINARY STATEMENT

The following responses (“Responses”) and objections (“Objections”) are made without waiver of, or prejudice to, any objections Defendant may have.

In addition, these Responses and Objections are based on information known to Defendant at this time and should not be viewed as an exhaustive statement of the facts underlying its claims or defenses in this action. Defendant has made a reasonable and good faith effort to respond to these Requests in compliance with Federal Rules of Civil Procedure 33 and 34. However, discovery is ongoing and Defendant has not fully completed its investigation relating to the facts in this action. The Responses contained herein are based only on such information and documents presently available and specifically known to Defendant. These Responses are provided without prejudice to Defendant’s right to produce or rely on subsequently discovered information, facts, or documents. Accordingly, Defendant reserves its right to produce subsequently discovered evidence and facts, and to add, modify, supplement, or otherwise change or amend these Responses as may be appropriate in light of further investigation, discovery, or court rulings. Nothing in these Responses shall limit or waive Defendant’s right to offer additional evidence at the time of any hearing or to provide information not yet obtained by or known to Defendant. These Responses are also subject to correction for any inadvertent errors or omissions.

No incidental or implied admissions are intended in these Responses. The fact that Defendant has responded to these Requests should not be taken as an admission that Defendant accepts or admits

1 the existence of any facts set forth or assumed by these Requests or that such response constitutes
 2 admissible evidence. Further, the fact that Defendant has responded to these Requests is not intended
 3 to and shall not be construed to be a waiver by Defendant of the objections to these Requests.

4 Defendant objects to these Requests to the extent they seek or would call for the production of
 5 information or documents that: (i) were prepared for or in anticipation of litigation and are work-
 6 product; (ii) constitute or reflect communications protected by the attorney-client, work-product, or
 7 common interest privileges; or (iii) are protected by any other privilege under the Federal Rules of
 8 Civil Procedure or other applicable law. The production of a document by Defendant in response to
 9 these Requests is not intended to waive any privilege, right or objection on the part of Defendant with
 10 respect to any such document. In the event that a privileged document(s) is inadvertently produced,
 11 such production shall be deemed inadvertent, and shall not constitute a waiver of Defendant's right to
 12 assert the applicability for any such document(s). Upon notification that such disclosure was
 13 inadvertent, the document(s) or any copies thereof shall be returned immediately.

14 Defendant intends to produce information electronically, in the manner specified in the
 15 Stipulation Regarding Discovery of Electronically Stored Information ("ESI") agreed to by the parties
 16 and in accordance with mutually agreed upon custodians, search terms, and production schedule.
 17 Defendant objects to the timeframe for production specified, and intends to begin production within
 18 30 days of entry of an appropriate protective order regarding confidentiality.

19 **OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS**

20 Defendant objects to the extent the Instructions request documents that exceed the scope of
 21 discovery permitted in Rule 26(b)(1) of the Federal Rules of Civil Procedure by seeking discovery
 22 beyond that which is relevant to Plaintiff's claim, Defendant's defenses, and proportional to the needs
 23 of the case, considering the importance of the discovery in resolving issues in the case and whether
 24 the burden of the proposed discovery outweighs its likely benefit.

25 Defendant objects to Plaintiff's Requests on the grounds that Instruction No. 1 is overly broad,
 26 unduly burdensome, and purports to impose on Defendant obligations beyond those required by the
 27 Federal Rules of Civil Procedure, applicable local rules, and/or orders of this Court. Defendant will
 28 respond to the requests in compliance with its obligations under the Federal Rules of Civil Procedure,

1 applicable local rules, and/or orders of this Court.

2 **RESPONSES & OBJECTIONS**

3 **REQUEST FOR PRODUCTION NO. 33**

4 The complete loan files (including any loss mitigation records) for proposed class members
5 (as defined in Paragraph 158 of the second amended complaint, Dkt. 137).

6 **RESPONSE TO REQUEST NO. 33**

7 Defendant objects on the ground that the Request is overbroad and premature as to any
8 individuals other than the named Plaintiffs, as no class has yet been certified. Defendant further
9 objects to the Request on the ground that it is vague as to what Plaintiffs consider “loan files” and on
10 the ground that it seeks documents for which the disclosure would invade the privacy of third parties
11 and constitute a violation of the Gramm-Leach-Bliley Act, 15 U.S.C. §§ 6801-6809. Defendant also
12 objects to this Request on the ground that it seeks documents that are not relevant to the claims and
13 defenses in this case.

14 Subject to and without waiving these objections, Defendant responds as follows: Defendant
15 will produce, based on a search of reasonable scope that is proportional to the needs of the case and
16 consistent with the parties’ ESI protocol, origination and loss-mitigation records (the “Loan Files”)
17 for the members of the putative California class.

18 **REQUEST FOR PRODUCTION NO. 34**

19 The complete loan files (including any loss mitigation records) for proposed class members
20 (as defined in Paragraph 158 of the second amended complaint, Dkt. 137) whose mortgage loan was
21 secured by real property located in California.

22 **RESPONSE TO REQUEST NO. 34**

23 Defendant objects on the ground that the Request is overbroad and premature as to any
24 individuals other than the named Plaintiffs, as no class has yet been certified. Defendant further
25 objects to the Request on the ground that it is vague as to what Plaintiffs consider “loan files” and on
26 the ground that it seeks documents for which the disclosure would invade the privacy of third parties
27 and constitute a violation of the Gramm-Leach-Bliley Act, 15 U.S.C. §§ 6801-6809. Defendant also
28

1 objects to this Request on the ground that it seeks documents that are not relevant to the claims and
2 defenses in this case.

3 Subject to and without waiving these objections, Defendant responds as follows: Defendant
4 will produce, based on a search of reasonable scope that is proportional to the needs of the case and
5 consistent with the parties' ESI protocol, the Loan Files for the members of the putative California
6 class.

7 **REQUEST FOR PRODUCTION NO. 35**

8 Any security instrument that any proposed class member had that does not include the "action
9 required to cure the default" or "except as limited by regulations issued by the [HUD] Secretary"
10 phrase in the acceleration clause.

11 **RESPONSE TO REQUEST NO. 35**

12 Defendant objects on the ground that the Request is overbroad and premature as to any
13 individuals other than the named Plaintiffs, as no class has yet been certified. Defendant further
14 objects to the Request on the ground the production of responsive documents as to the non-California
15 out-of-state putative class members would be improper absent a court order. Defendant further objects
16 on the ground that it is unduly burdensome. Defendant further objects to the Request on the ground
17 that it seeks documents for which the disclosure would invade the privacy of third parties and
18 constitute a violation of the Gramm-Leach-Bliley Act, 15 U.S.C. §§ 6801-6809.

19 Subject to and without waiving these objections, Defendant responds as follows: Defendant
20 will produce, based on a search of reasonable scope that is proportional to the needs of the case and
21 consistent with the parties' ESI protocol, responsive documents for the members of the putative
22 California class, to the extent any exist.

23 **REQUEST FOR PRODUCTION NO. 36**

24 Any security instrument that any proposed class member had that is not the Fannie
25 Mae/Freddie Mac or Federal Housing Administration form version in Dkt. 60-3.

26 **RESPONSE TO REQUEST NO. 36**

27 Defendant objects on the ground that the Request is overbroad and premature as to any
28 individuals other than the named Plaintiffs, as no class has yet been certified. Defendant further

1 objects to the Request on the ground the production of responsive documents as to the non-California
2 out-of-state putative class members would be improper absent a court order. Defendant further objects
3 on the ground that it is unduly burdensome. Defendant further objects to the Request on the ground
4 that it seeks documents for which the disclosure would invade the privacy of third parties and
5 constitute a violation of the Gramm-Leach-Bliley Act, 15 U.S.C. §§ 6801-6809.

6 Subject to and without waiving these objections, Defendant responds as follows: Subject to
7 and without waiving these objections, Defendant responds as follows: Defendant will produce, based
8 on a search of reasonable scope that is proportional to the needs of the case and consistent with the
9 parties' ESI protocol, responsive documents for the members of the putative California class, to the
10 extent any exist.

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12 Dated: December 6, 2019

WINSTON & STRAWN LLP

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14 By: /s/ Amanda L. Groves
Amanda L. Groves
15 Kobi K. Brinson (*pro hac vice*)

16 Attorneys for Defendant
WELLS FARGO BANK, N.A.
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CERTIFICATE OF SERVICE

United States District Court for the Northern District of California

Case No. 3:18-cv-07354-WHA

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is Winston & Strawn LLP, 333 S. Grand Avenue, Los Angeles, CA 90071-1543. On December 6, 2019, I served the following document:

DEFENDANT WELLS FARGO BANK, N.A.'S RESPONSES TO PLAINTIFFS' THIRD SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS



by placing a copy of the document listed above in a sealed envelope with postage thereon fully prepaid in the United States mail at Los Angeles, CA addressed as set forth below.

I am readily familiar with the firm's business practice for collection and processing of correspondence for mailing with the United States Postal Service. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service with postage fully prepaid.



by electronically transmitting a copy of the document listed above via email to the addressees as set forth below, in accordance with the parties' agreement to be served electronically pursuant to Federal Rule of Civil Procedure 5(b)(2)(E), or Local Rule of Court, or court order. No error messages were received after said transmission.

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1 I declare under penalty of perjury under the laws of the United States of America that the
2 above is true and correct.

3
4 Signed: /s/ Shawn R. Obi
Shawn R. Obi

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6 Dated: December 6, 2019
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